

REMARKS

Claim 1 has been amended to include the limitations previously set forth in claim 4, which had depended from claim 1. Claim 4 has been canceled.

35 U.S.C. §102

MPEP 2131 quotes Verdegaal Brothers v. Union Oil of California, 814 F.2d 628, 631 (Fed. Cir. 1987) for the legal standard of anticipation: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (emphasis added).

Claims 1-21

Amended claim 1 claims "[a] method of forming an anastomosis between a graft vessel and a target vessel, each vessel having a lumen therein and a wall around the lumen; the method comprising: providing an anastomosis device and an expander; connecting an end of the graft vessel to said anastomosis device; delivering at least a portion of the anastomosis device into the lumen of the target vessel through an opening in the wall of the target vessel; and manipulating said anastomosis device to form a first flange therein, said first flange positioned in the lumen of the target vessel and spaced apart from the wall of the target vessel; wherein said manipulating includes translating said expander relative to said anastomosis device."

Claim 1 has been amended to include the limitations previously set forth in claim 4, which had depended from claim 1. The Office Action did not reject claim 4 under either U.S. Pat. No. 6,461,320 to Yencho et. al. ("Yencho") or U.S. Pat. No. 5,234,447 to Kaster et. al. ("Kaster"). Thus, amended claim 1 is allowable over both Yencho and Kaster.

Turning to U.S. Pat. No. 6,193,734 to Bolduc et. al. ("Bolduc"), that reference does not describe each and every element of amended claim 1. Among other elements, amended claim 1 requires "providing an anastomosis device" and "manipulating said anastomosis device to form a first flange therein, said first flange positioned in the lumen of the target vessel and spaced apart from the wall of the target vessel." (emphasis added). First, in contrast, the cited figures and text of Bolduc merely describe "a plurality of tissue securing members 14," not the claimed "anastomosis device." (Bolduc; e.g., col. 5, lines 51-54).

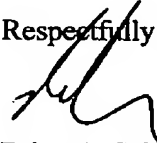
Second, even if the plurality of tissue securing members 14 of Bolduc were considered to be an anastomosis device and the legs 30 of the tissue securing members were collectively considered to be a flange (which they are not), the legs 30 of the independent tissue securing member 14 are not and cannot be manipulated "to form a first flange therein, said first flange positioned in the lumen of the target vessel and spaced apart from the wall of the target vessel." The tissue securing members 14 are deformed from a first configuration to a second configuration, in which "the first leg 30 of each tissue securing member 14 [is folded] into contact with the wall of the second tissue structure T2." (Bolduc; col. 6, lines 54-64) (emphasis added). That is, manipulation of the tissue securing members 14 bends the legs 30 into contact with the wall of the target vessel. At no time do the legs 30 of the tissue securing members 14 form a flange in the second, deformed configuration while being "spaced apart" from the wall of the target vessel, as required by claim 1.

Thus, Bolduc neither expressly nor inherently discloses each and every element claimed in amended claim 1, and Applicants believe claim 1 is in condition for allowance. Claims 2-3 and 5-21 depend from claim 1, and are thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

REQUEST FOR ALLOWANCE

Allowance of the pending claims is respectfully solicited. Please contact the undersigned if there are any questions.

Respectfully submitted,



Brian A. Schar
Attorney for Cardica, Inc.
Reg. No. 45,076
Tel. No. (650) 331-7162